

tested positive for methamphetamine. The bag found on the ground contained a white powdery substance that tested positive for methamphetamine.

Erickson moved to suppress all of the evidence. He argued that the trooper had no right to (1) order him out of the car, and (2) conduct the pat-down of his person.

ISSUE #1:

Did the trooper have the right to order Erickson out of the vehicle?

HELD: Yes--a police officer can order the driver and passengers out of a car that was stopped for a routine traffic violation, without need for any further justification; see Maryland v. Wilson, Legal Bulletin No. 214.

ISSUE #2:

Could the trooper conduct a pat-down search of Erickson?

HELD: No--there were no facts to support that Erickson was either armed or dangerous.

REASONING:

1. Not every legitimate stop (citing Terry v. Ohio) can be accompanied by a frisk. There must be reasonable belief that the suspect may be armed and dangerous before a frisk is initiated.

2. The court questioned whether Erickson was under detention or investigation for a crime; failure to wear a seatbelt is an infraction punishable by a fifteen-dollar fine.

3. The trooper had legitimate case-specific reasons for ordering Erickson out of the car (Maryland v. Wilson).

4. Although the trooper might have had reasonable suspicion that Erickson gave him a false identity, he did not have probable cause to arrest him. (emphasis added)

5. The trooper had sufficient information to allow him to order Erickson to get out of the vehicle, but there is nothing in the record that shows the trooper had sufficient reason to conduct a pat-down search for weapons. There is concern that, unless strictly regulated by courts, pat-down searches "may be used as a pretext to conduct a search for evidence."

NOTES:

The court has remanded this case to the Superior Court to determine if the bag-or-purse evidence found lying in the snow next to the car before Erickson was patted down would have been inevitably discovered by the trooper.

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